

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HERBERT M. MIDDLETON

:

Plaintiff,

:

REPORT & RECOMMENDATION

-against-

:

13 Cv. 1291 (ALC) (MHD)

CORRECT CARE SOLUTIONS LLC et al., :

Defendants. :

:

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MICHAEL H. DOLINGER

UNITED STATES MAGISTRATE JUDGE:

8/7/13

Plaintiff filed his complaint on February 25, 2013 and the court issued summonses as to each of the named defendants on March 8, 2013, thus requiring plaintiff to effectuate service by July 8, 2013 -- that is, within 120 days of the issuance of the summonses.

On April 30, 2013, the court sent a letter to plaintiff's address of record at the Westchester County Jail, noting the service deadline. That letter was returned as undeliverable, apparently because plaintiff had been released from custody. The court called the Westchester County Jail seeking plaintiff's forwarding address and was informed that the jail keeps only records of inmates' addresses at the time of their entry into the jail. On May 16, 2013, the court again sent a letter to plaintiff noting the deadline for service, with copies mailed to his address of record and to the Mount Vernon address that he had provided to

the Westchester County Jail upon entering into custody.

Plaintiff did not file proof of service with the court by July 8, 2013. On July 22, 2013, the court issued an order to show cause why plaintiff's complaint should not be dismissed for failure to effectuate service in accordance with Rule 4(m) of the Federal Rules of Civil Procedure. The court has still not received any word from plaintiff.

We therefore recommend that the complaint be dismissed without prejudice for failure to serve defendants pursuant to Rule 4(m).

Dated: New York, New York
August 7, 2013

SO ORDERED.



MICHAEL H. DOLINGER
UNITED STATES MAGISTRATE JUDGE

Copies of the foregoing Order have been sent today to:

Mr. Herbert M. Middleton
Westchester County Jail
P.O. Box 10
Valhalla, NY 10595

Mr. Herbert M. Middleton
119 East 4th Street
Mount Vernon, NY 10550